

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

COMPLAINT NO. R2-2002-0052

**MANDATORY PENALTY
IN THE MATTER OF
NEW CENTURY BEVERAGE COMPANY
ALAMEDA COUNTY**

This complaint to assess mandatory minimum penalties pursuant to Water Code Section 13385 (h) is issued to the New Century Beverage Company, (hereafter Discharger) based on a finding of violations (known to the Board) of Waste Discharge Requirements Order Nos. 97-007 (NPDES No. CA0030058).

The Executive Officer finds the following:

1. On January 15, 1997, the Regional Water Quality Control Board, San Francisco Bay Region, (Regional Board) adopted Waste Discharge Requirements Order No. 97-007, for the Discharger, to regulate discharges of waste from this treatment plant.
2. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation in any six-month period or in lieu of the penalty require the discharger to spend an equal amount for a supplemental environmental project or to develop a pollution prevention plan.
3. Water Code Section 13385(h)(2) defines a serious violation as any waste discharge of a Group I pollutant that exceeds the effluent limitation by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Order No. 97-007 includes the following effluent limitations:

B. Effluent Limitations

1. *The effluent shall not exceed the following limits:*
Chlorine residual instantaneous maximum of 0.00 mg/l
5. According to monitoring reports received, there were a total of 2 violations of your NPDES permit during the period between January 1, 2000 and September 30, 2001. There was one chlorine residual effluent limit violation on August 7, 2000 and a second chlorine residual effluent limit violation September 13, 2000.
6. The chlorine residual violations are serious violations under Section 13385 (h) (1) because chlorine residual is a Group II pollutant and any detection exceeds the zero effluent limitation by more than 20%. These two serious violations are each subject to a mandatory minimum penalty of \$3,000 for a total penalty of \$6,000.

7. In lieu of the \$3,000 penalty for the first serious violation in the preceding 180 days the discharger may be permitted to complete a pollution prevention plan (PPP) or conduct a supplemental environmental project (SEP) approved by the Executive Officer.

**NEW CENTURY BEVERAGE COMPANY, ALAMEDA COUNTY IS HEREBY GIVEN
NOTICE THAT:**

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a minimum mandatory penalty in the amount of \$ 6,000.
2. A hearing shall be held by the Regional Board on June 19, 2002 unless the Discharger agrees to waive the hearing and pay the mandatory minimum penalty of \$6,000 in full, or pay \$3,000 and propose a PPP or an SEP equivalent to \$3,000.
3. You can waive the right to a hearing by signing the last page of the Complaint and checking the appropriate box. By doing so, you agree to pay the liability within 30 days of signing the waiver.
4. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed penalty, or whether to refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.

Loretta K. Barsamian

Loretta K. Barsamian
Executive Officer

May 14, 2002
Date

WAIVER

- [] By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2002-0052 and to remit payment for the civil liability imposed to the State Water Resources Control Board at 1515 Clay Street, Oakland CA 94612. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment for the civil liability imposed within 30 days after signing this waiver.
- [] By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2002-0052 and to complete a pollution prevention plan or conduct a supplemental environmental project in lieu of the civil liability imposed for the first serious violation, subject to approval by the Executive Officer. If the pollution prevention plan or supplemental environmental project is not acceptable to the Executive Officer, I agree to pay the civil liability within 30 days of a letter from the Executive Officer denying the approval of the proposed project. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization